

MINUTES

**MONTANA SENATE
58th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON FINANCE AND CLAIMS

Call to Order: By **CHAIRMAN TOM ZOOK**, on March 20, 2003 at 8:00 A.M., in Room 317 Capitol.

ROLL CALL

Members Present:

Sen. Tom Zook, Chairman (R)
Sen. Bill Tash, Vice Chairman (R)
Sen. Keith Bales (R)
Sen. Gregory D. Barkus (R)
Sen. Edward Butcher (R)
Sen. John Cobb (R)
Sen. Mike Cooney (D)
Sen. John Esp (R)
Sen. Royal Johnson (R)
Sen. Bob Keenan (R)
Sen. Rick Laible (R)
Sen. Bea McCarthy (D)
Sen. Linda Nelson (D)
Sen. Trudi Schmidt (D)
Sen. Debbie Shea (D)
Sen. Corey Stapleton (R)
Sen. Emily Stonington (D)
Sen. Jon Tester (D)
Sen. Joseph (Joe) Tropila (D)

Members Excused: None.

Members Absent: None.

Staff Present: Prudence Gildroy, Committee Secretary
Taryn Purdy, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 18, 3/7/2003
Executive Action: HB 272; SB 89

HEARING ON HB 18

Sponsor: REP. JIM SHOCKLEY, HD 61, Victor

Proponents: Karla Gray, Chief Justice, Montana Supreme Court
 Judge Dorothy McCarter, District Judge
 Dan Cellini, Information Technology, Supreme Court
 Robert Throssell, Montana Magistrates Association
 Nancy Sweeney, Clerk of Court, Lewis and Clark
 County
 Laura Brent, Clerk of District Court, Yellowstone
 County
 Mary Phippen, Montana Association of Clerks of
 District Court
 Gordon Morris, Montana Association of Counties
 Aimee Grmoyer, Montana Collectors Association
 Richard Meeker, Montana Juvenile Probation
 Officers Association
 Betsy Brandborg, State Bar of Montana

Opponents: None

Opening Statement by Sponsor:

REP. JIM SHOCKLEY, HD 61, Victor, opened on **HB 18**, a bill to increase the court's information technology surcharge and eliminate the sunset. In FY96 they started charging people to use the court system for technology. Everybody pays except county attorneys and governmental entities. People charged with crimes and win don't pay either. The courts have financial problems, particularly after **SB 176**. They not only need the \$5, they need \$10. This bill raises the fee from \$5 to \$10 and removes the sunset. The **Chief Justice** feels a surcharge is not the way to fund courts. He understands that position, but as a practical politician, he thinks it's good policy.

Proponents' Testimony:

Karla Gray, Chief Justice, Montana Supreme Court, appeared in support of **HB 18**, the only actual **Supreme Court** requested legislation this session. The court is not fond of this funding mechanism, and it is the only funding mechanism they've ever had for information technology. Coming into this session, she didn't believe this was a very propitious moment in time to try to move this as general fund funding. They instead proposed an increase in the surcharge which has not been raised since it was first imposed. In legislative action last session, through state

assumption, they took on 250-275 new state employees. There was no associated funding for technology for those who came over, and the branch does not have the resources. She thanked them for taking the bill on re-referral, as on the senate floor there was confusion about the bill. The surcharge does not include a surcharge for speeding violations. **REP. CINDY YOUNKIN** has a separate bill, **HB 369**, which is not a court requested bill, that would extend the surcharge to speeding violators. That bill was heard in **Senate Highways and Transportation Committee** and it is totally separate from this bill. There was also some concern on the floor about the courts of limited jurisdiction. The Montana Magistrates Association is fully supportive and fully behind the bill.

Judge Dorothy McCarter, District Judge, supported the bill on behalf of the **Montana Judges Association**. The judges in the association are in unanimous support of the bill. She commented that computers and computer technology are essential for the operation of the district courts. As a district judge, she uses computer technology for drafting all of her orders and decisions, to access their case management program, and for her legal research. Many of the judges in the eastern part of the state don't even have a computer set up the way they should. She didn't know how they do their research, because they can't afford libraries either. She begged them to pass the bill. The courts need to be computerized along with internet and networking.

Dan Cellini, Information Technology, Montana Supreme Court, advised there is a technology staff of six people, plus himself-- a 1% ratio, serving 925 people in 56 counties. Most state agencies have about a 4% ratio and most organizations around the country enjoy about 5.5%. He thought if he utilized some of the resources through **Brian Wolfe's** office, **ITSD**, they won't need 4 or 5% and what they are asking for is roughly 1.8 to 2%. They have been asked what they have done with the money so far. On average they used about 35% of the money collected on staff salaries. They spent about 15% on operating expenses, and about 50% on district courts, courts of limited jurisdiction, and hardware and software for the field. They don't have support for the folks in the field, who don't get timely answers for their help calls. They don't have someone just to take calls. The software and hardware in the field is woefully out of date. Even if there was funding to purchase the computers, they don't have the staff to deploy them. The case management deployment for the courts of limited jurisdiction is going very slowly. The training staff can deploy quickly, but the network staff can't. They probably put in more windshield time than anyone. With the outdated hardware and software in the field, there are constant maintenance issues. With the passage of the funding mechanism in

HB 18, they will have five network support positions and two systems programmers, instead of one. One person understands the district court case management system, and he wasn't comfortable with that degree of exposure. He will hire one front desk person. There is a four year replacement cycle on all computer equipment in almost all state agencies currently, but they do not have the funding in the Judicial Branch. In four years, those machines become very difficult to maintain. The system is old, but it works well and is preferred by many of the courts; they do need to make changes to it. Without this legislation and funding mechanism, support for computer operations in Montana's court system will not exist.

Robert Throssell, Montana Magistrates Association, and representing the judges of the Courts of Limited Jurisdiction, advised the association firmly supports **HB 18**. They handle the majority of all cases filed in the state and need this help and support. They spent ten years working with the **Supreme Court** and the technology committee to implement computers in the JP courts, city courts, and municipal courts across the state. They raised the funds for this. The majority of the fees are collected by them, and they need this program so they can account for this money, other surcharges, filings, and other programs the legislature has implemented. Fines are now a 50/50 split with the state. Many of them are still using a hand ledger system. Small counties and municipalities would not be able to update or even implement new technology because of their financial situation.

Nancy Sweeney, Clerk of Court, Lewis and Clark County, advised she is a member of the Supreme Court Commission on Technology and a member of the State Bar Access to Justice Committee. She urged support of **HB 18**. She read from written testimony **EXHIBIT(fcs59a01)** and referred to the Information Technology Strategic Plan of the Judicial Branch. **EXHIBIT(fcs59a02)**

Laura Brent, Clerk of District Court, Yellowstone County, asked support for **HB 18**. She presented letters to committee members. **EXHIBIT(fcs59a03) {Tape: 1; Side: B}** She described the JCMS system on which her jury system is completely dependent. Without JCMS, she would have to retreat to pulling jury names from little capsules again. She no longer has a deputy clerk who spends most of the day hand stamping microfilm numbers on the bottom of each document page. With JCMS, she scans documents that used to be microfilmed every day. Her clerk is now able to provide all statutorily mandated reports. Her office takes in about 400 documents daily to be filed. With JCMS, they are able to keep their files updated on a daily basis. She asked the committee to read a letter from Judge G. Todd Baugh. **EXHIBIT(fcs59a04)** All

five of the Thirteenth Judicial District Court judges know and understand the importance of the JCMS system and support **HB 18**. She asked the committee to read a letter from her information services director. **EXHIBIT(fcs59a05)** From 1995 to the present, she has a total of 52,662 cases filed in her office. She referred to a handout of reports from the JCMS system.

EXHIBIT(fcs59a06) The only way she has to track any of these cases is through her JCMS system. If the system is not maintained, she would lose all ability to have access to any of the information in these case files. It would be costly to duplicate this information. Her system in Billings is functioning and doing everything she asks of it. The denial of this bill would be the equivalent of asking a modern day family to give up their automobile for a horse and carriage.

Mary Phippen, Montana Association of Clerks of District Court, supported the bill and read from written testimony.

EXHIBIT(fcs59a07)

Gordon Morris, Montana Association of Counties, noted for the record that **MACO**, and himself in particular, are accused of being the architects of state assumption of district court. He said **SB 18** has no relationship to the state assumption of district courts. **MACO** stands one hundred percent in support of **HB 18**, and asked for favorable consideration of the bill.

Aimee Grmoyer, Montana Collectors Association, rose in support of the bill. She mentioned **HB 369** allows the \$10 surcharge in **HB 18** to apply to speeding violations. She said it is an issue for the committee to determine if it is the legislature's intent to provide this kind of funding.

Richard Meeker, Montana Juvenile Probation Officers Association, testified the association is in full support of this legislation. The state provides connections to state computer systems, service to their employees, updates of computer equipment, and responds to their questions. Without this funding, the Judicial Branch would be unable to support their operation. Like many professions, their computers are essential to their line of work. In addition to the preparation of court and other required documents, they maintain their client files. Without the proper technology, they are greatly handicapped. The bill will provide an adequate funding source to insure they will maintain their basic technology. He urged support for the bill.

Betsy Brandborg, State Bar of Montana, advised she represents 4000 attorneys who are licensed with the state bar of Montana, and 2600 active practitioners in the state, and they support adequate funding of technology.

Opponents' Testimony: None.

Informational Witnesses:

Brian Wolf, Chief Information Officer, Department of Administration, provided written testimony. **EXHIBIT(fcs59a08)** He advised when he came to Montana in October of 2001, he got to know **Justice Jim Nelson**, who is on the Informational Technology Board which provides oversight of his office. They and others talked about the current technology of the court. Part of that conversation involved the need to hire an IT manager, and that person is **Dan Cellini**. In addition, they needed to establish a sound IT strategic plan and that has been done. He was involved in writing **Mr. Cellini's** position description, hiring him, etc., and through that process his office has been involved in their IT strategic plan. The **Chief Justice, Justice Nelson, and Mr. Cellini** have worked closely with his office so they can lean into the state central resources like SummitNet. The court is looking to move their technology to the state standard technology.

Questions from Committee Members and Responses:

SEN. RICK LAIBLE asked what they accomplished with the \$6 million since 1995, and if this is the only funding for information technology within the judiciary.

Mr. Cellini advised it is the only funding they get besides occasional grant funds that are very minor in size. This year they applied for a grant to replace some of the equipment for juvenile probation officers. Technology support is ongoing, and they spent about half of the money they received over the years buying hardware and software for the field. Other major expenses are the purchase of the case management system for the courts of limited jurisdiction, and machines and equipment to run networking.

SEN. LAIBLE asked **Ms. Brent** about her testimony that her county was fully implemented into this program in 1995 and the funding wasn't available until 1996. He asked if she received a grant or if the local taxpayers paid for it.

Ms. Brent said they were the test site for the JCMS system. They started the program in 1992-1994.

SEN. LAIBLE asked how their funding came about for the test project in 1992.

Ms. Sweeney advised Lewis and Clark County was a pilot program fourteen years ago. There was some money through the **Board of**

Crime Control grants and other money that the judiciary peeled off to start working on a case management system to assist the counties. It was very limited and just like Yellowstone County was a pilot project in 1994, Lewis and Clark County was a pilot project in 1989-1990. There were limited funds, and all of their time and effort was donated. There was only one person developing the system at that time.

SEN. LAIBLE said it appears the pilot program was brought forward and funding was peeled off etc., and the pilot program in Yellowstone County is what originated the bill in 1995 which created the funding stream for the rest of the counties.

Ms. Sweeney said that is correct. When it first began in her office, it was little more than a repetition of the big ledgers that they used. It didn't have the capability to do much indexing, reports, or cross systems. In 1992, they first started deploying the program in Yellowstone County, and she believed they did that at the same time in Kalispell. The clerks decided they wanted to support it statewide, and the mechanism was developed.

SEN. COREY STAPLETON asked **Ms. Brent** if she is an advocate of removing the sunset or doubling the revenue for this program if it's already functioning and doing everything she is asking.

Ms. Brent believed the **Court Administrator's Office** needs the extra funding to make the program accessible to all the counties as it is in her office. Her office is an exception to the other counties. She has the imaging and the juror system, and most of the counties don't have those capabilities on the JCMS system. She knows it is because of the funding and the lack of personnel to go out and implement these systems in each of the counties. She is fortunate she has these systems. Without her JCMS system, she would not be able to function in her office.

SEN. STAPLETON asked **Ms. Sweeney** about the study and the document she shared. He didn't remember seeing that document.

Ms. Sweeney said the document she referred to in her testimony is the very first comprehensive plan developed in the fourteen years since the development of JCMS. When they supported the implementation of the surcharge in 1995, it was simply through testimony of it working in their offices. There wasn't much documentation developed because time was spent on deploying it.

SEN. STAPLETON asked when they would share that information with those who have to appropriate.

Ms. Sweeney was under the impression they had a copy of the IT plan. She was sure **Mr. Cellini** could get a copy of that for all the members of the committee.

CHAIRMAN TOM ZOOK asked her to explain to the committee when the document was drafted and printed. He asked if it was shortly before the session.

Ms. Sweeney said that is correct. In 2002, the **Supreme Court Commission on Technology** was established and **SEN. ZOOK** was part of the commission. The report was an effort to establish goals. It was just amended a few weeks before, and will be an ongoing document.

SEN. STAPLETON asked if the report was made available to the 150 legislators.

Mr. Cellini indicated it was. They published it in December and distributed it. He said he would get the senator a copy, and it is also available online.

SEN. STAPLETON asked if his computer could be configured for JCMS.

Mr. Cellini said it depends on the capabilities of his system, but he believed so.

SEN. STAPLETON asked about the fiscal note. He commented about the new flat screens this session, and stated most legislators don't have those on their home computers. The state spends \$1351 per computer and he advised computers can be purchased from DELL etc., with pretty high capabilities for \$800 to \$900. If ordinary, high capability DELL computers can be configured, at \$900 versus the \$1300, there is a \$170,000 savings in a biennium. They are spending \$78,000 or \$150,000 for travel per year and he didn't know what that's for. He wondered if doubling the fee and indefinitely postponing the sunset and is needed to double the FTE and buy computers at \$1300 a computer. He wondered who justified the fact they need to double fees.

Mr. Cellini advised the \$1351 per device is a number arrived at through the budgeting process in the Governor's budget office, ITSD, and managers around the state. That is something that all agencies have submitted as their dollar value for replacing equipment and that is an aggregate figure. There are people who use laptop systems and some who need more of a computer. He agreed computers could be bought much cheaper, but a \$900 machine won't last four years. That's why they only cost \$900. There are a lot of people using those machines around the state, but

they won't run standard software. When staff travels, they don't sleep in the car, they sleep in a motel that costs money. Many times they are traveling fourteen hours a day. It is a very large state, and traveling around it is quite costly. The surcharge is not the court's favorite mechanism of funding. As IT manager, he wasn't concerned about the source of funding as long as they can get it funded. {Tape: 2; Side: A} The bill does not cure every problem or make it all go away.

SEN. STAPLETON said the bill doesn't deal with speeding tickets, but **REP. YOUNKIN'S** bill includes speeding tickets on line 20 of the bill. He asked if **HB 18** passes, if revenues from speeding tickets would double.

Chief Justice Gray advised **REP. YOUNKIN'S** bill has not yet passed. **REP. YOUNKIN'S** bill is not the court's bill, nor would they have spending authority for those funds. If **REP. YOUNKIN'S** bill passes, it would add another \$400,000 or so on a yearly basis. Regarding the flat monitor issue, etc., the \$1300 figure for computers in the fiscal note does not include flat monitors. They are not buying a Mercedes Benz. She disclosed on her floor, over at the Justice Building where the **Supreme Court** resides, she has the only flat monitor. It was there before she was chief justice.

SEN. STAPLETON maintained the figure paid for PC's is absurdly high throughout government and computers can be bought for \$600 or \$700 that the users can use.

Chief Justice Gray responded if they want to take an action across the board on that figure, that like everything else is certainly their decision. She encouraged him not to single out the Judiciary for that action. She advised copies of the Judiciary's IT Strategic Plan would be forthcoming.

SEN. STAPLETON asked **Brian Wolf** for his view on the fee increase and how to justify \$1300 for computers, etc.

Mr. Wolf advised they had been having that conversation with a number of Representatives. His office gave all the information to the legislative auditor. Budgets are an estimate of a future occurrence. There are three contractual primary providers of computers. There is a master license agreement with each of those, and the agencies themselves have the ability to buy those computers. They do not buy them through his office. His responsibility and control is to negotiate the contracts. There are various levels of required performance for computers in state government. When the budget was put together, the plug figure of \$1300 was the best figure they had at that time. Over time, the

costs for certain pieces of technology decline. They provided the information used for the estimates to the legislative auditor. Some workstations require additional memory and some people require laptops, so the number is probably still good. A Dimension computer can be purchased through DELL for \$700. It doesn't have the ghosted software image that the state standard computer has, and it is not the standard hardware configuration in their agreement with DELL. That hardware configuration and the bios inside DELL's other platform called the Optiplex, work well with the state's software. Right before coming to state government, he put together a deal with DELL computers for sixteen states under the same model. They went to a standard platform, the Optiplex, that had a life cycle of a certain distance and there was assurance the components were a certain standard technology framework. DELL finds the best prices on hardware, memory, etc., and plugs it in. There is no assurance for a standard configuration of hardware in the Dimension. Ultimately, that affects total cost because that box will have to be touched up. He understood the policy issue around raising fees is one that the body has to work with along with the Judiciary. Having looked at the situation historically, he understood why they now have an IT manager. In retrospect, on the court assumption project, nobody had the vision for an IT plan and this is all happening after the fact. That is not the first time he had found that in state government. The Judiciary realized it is a hole that needs to be filled. They will work closely with the Judiciary to try to mitigate costs. When court assumption took place, the issue was not addressed and should have been.

SEN. KEITH BALES asked **Mr. Cellini** about the testimony regarding reprogramming computers with Windows 98. He asked if the software and the system is in place to go forward. His concern was they go forward and then come back to the legislature in four years saying they had gone forward with a system that is not right.

Mr. Cellini said what is in place currently is a working system in every county. It is in various versions, however. Yellowstone County has the most current version. In large part, that is due to their desire and ability to participate in testing those new features. They also have strong IT support. The system itself is old, but stable. It is not state standard software, and their desire is for it to be state standard software. It is currently written from tools from Advanced Revelations. Changing that software platform is inevitable, but when it is done is something that must be controlled. There are a number of district court clerks around the state that very much appreciate the system. The system does not run with stability or any speed in many modern platforms. Their desire is to make it

stable in a modern platform. That will be a lot of work, and is why additional staff is being requested. It is important to start evaluating prior to rewriting or purchasing.

SEN. BALES asked if it would be better to go to a system to go out into the future before updating all of the other counties. He wondered about reinventing the wheel twice.

Mr. Cellini explained there is a system employed separately in all of the counties. There is no ability to share information across the network. He has been working with **Mr. Wolf's** staff on using some of those platforms the counties operate and centralizing in a few or one location so it can be shared. The reason it's a problem, is when he has to make a change in Wibaux, that is a day trip. He agreed there is no reason to make a quantum leap forward, and he is not looking to do that. What they have in place is quite nice. It can be updated a little and it doesn't take much to make it work nicely, slightly enhanced. At some point it can be replaced or brought to the state standard, Oracle.

SEN. MIKE COONEY said he was interested that there was no formal arrangement between **Mr. Wolf's** office and the **Supreme Court**. He asked if **Mr. Wolf** would continue to assist the court. He said the need for coordination and working together in the IT field is very important to avoid more POINTS type problems. He also wanted to hear what the court had to say. Because there isn't a formal arrangement, he wanted to know what kind of informal arrangements could be expected.

Mr. Wolf advised he was involved in the front end because **Justice Nelson** and the court administrator had involved him. He shifted some of it to others in his office, but does communicate with **Mr. Cellini** frequently. **Mr. Cellini** is chairman of the Information Technology Managers Council. Going forward, there are a couple of things that are formalized. In **SB 131**, there is small section that says the court has to submit their IT plan to his office, but unlike the Executive Branch, he doesn't approve the plan, it is just submitted. The commitment between him and **Mr. Cellini** is where they can procure centralized services and help make the investment in the enterprise, they will do that so there will not be duplication. Where existing connectivity into the counties can be leveraged, they won't duplicate. If they have to expand bandwidth into a county to support them, it will be done over SummitNet, which is the shared network between them, the University Systems, and the counties. In July, his office facilitated 250 employees becoming state employees. They will formalize service agreements with agencies, and if the Judiciary needs him, they can use him.

SEN. COONEY asked **Chief Justice Gray** how she sees the role between the court and ITSD.

Chief Justice Gray saw the role as a continued commitment to work as collaboratively as possible with **Mr. Wolf** in his shop into infinity or at least as long as she is Chief Justice. Because of the branches, it is not precisely the same kind of situation as the Executive agencies have with the CIO. It is a committed relationship and they feel blessed **Mr. Wolf** and others from ITSD helped them from the get-go with state assumption. They have every intention to continue to work as collaboratively as possible. The more standardization that can be done, the more efficiently services can be provided.

SEN. COONEY noted in **SB 131** their IT plan had to be submitted to **Brian Wolf's** shop, but it is almost advisory. If **Mr. Wolf's** shop looked at the IT plan and found a major flaw, he asked how she would respond.

Chief Justice Gray responded they would have discussions to iron it out and find some level of agreement, which is not to say that every suggestion or concern in every event will be accepted. Without question, their approach would be to try to iron it out.

SEN. COONEY asked about the blue sheet, which talks about the summary and history of the project. **EXHIBIT(fcs59a09)** He asked what they can expect the court to come back and tell them had been accomplished in two years. **{Tape: 2; Side: B}**

Chief Justice Gray advised they will see clearly from the strategic plan what the goals are. Fully meeting every objective cannot be guaranteed in the estimated time frame, but that is the goal. Over the interim, they will be available to any committee.

Mr. Cellini advised in the next several years, they are looking to complete deployment of the full court package for the courts in each district. His hope is to have it centrally served. They hope to have the update to the district court package completed by that time. They don't have the ability to track calls, but they will have that ability by that time. They will be able to say how much they've spent in the district courts and how much has been received from the courts in revenue. Those types of questions cannot be answered, currently, but will be answered by the end of the next fiscal year. They want to establish a recording system so they know how many people they are providing service to. Currently, the estimate is 925.

SEN. JOHNSON noted one of the best growth industries in the state is information technology growth in state government. He is not sure they can afford it. He asked about the salary breakdown.

Mr. Cellini advised those are approximations.

SEN. JOHNSON said the approximation he would use is the one in the budget where salaries change from 35% to 45%, operations change from 15% to 25%, and hardware and software change from 35%. He asked for an explanation for the change since this bill would generate twice as much money.

Mr. Cellini explained the variations from year to year in an aggregate are estimates using numbers since 1996. In any given year, there could be more overtime, etc. Money is being spent on hardware. Those numbers are going to change, and this is a rough estimate based on what has been done over the years.

SEN. JOHNSON asked if the best estimate over the next two years are the percentages based on the fiscal note.

Mr. Cellini advised their world changed as a result of state assumption. In the past, the district court offices and the juvenile probation offices were expensed as different line item. This fiscal year, and moving forward, they are being expensed in a different place and those ratios will change.

SEN. JOHNSON noted for the slightly enhanced package, the doubling of the fee is better than slightly enhanced. He asked if they had checked with suppliers in the state for bids.

Mr. Cellini advised they have not because what they do in the courts in Montana is very much specialized. There aren't any vendors he's aware of that provide the type of service they are trying to provide. State employees work at a cheaper rate than what is expended on contract services typically. It is possible for contract services to do the same or similar job for a less total cost, but it is difficult to find anyone who can provide support for the software. The limited court package they are currently deploying is being maintained and serviced partially by the vendor. They are being paid for first line support. When JSI isn't successful, the problem is referred to his staff. He has three people who are trained and can service that package. Those three are usually in the field training folks and installing the package. His hope is to not do that because of the expense.

SEN. JOHNSON advised that is an assumption based on not having checked with vendors.

Mr. Cellini advised it is cheaper to have existing staff service the need rather than paying \$800 per license for JSI to do it. There is nobody to support the district court package other than the staff that built it and maintain it.

SEN. ED BUTCHER referred to the "\$75,000 hammer" so often found in government, and advised he called his corporate headquarters in Atlanta. He asked about cost for a state court system, told them the fiscal note was almost \$1400 per unit, and they laughed. He was told top of the line computers without monitors could be bought for between \$500 and \$600. Flat screens were \$300, so flat screens with a high-tech, high-speed computer would be under \$1000.

Mr. Wolf advised he had been out of private industry seventeen months. The organization he left had a price plan when replacing computers very close to the one the state of Montana has. For the configuration that **SEN. BUTCHER'S** organization is using, they may very well be spending less. The amount includes a replacement monitor. When the budget was put together for the state and a plug number was developed, it is an average between the high cost workstation and those of lesser cost. In terms of the total cost of ownership on these computers, the information was given to the legislative auditor and he would be happy to sit down and discuss it. A cheaper computer can be bought, but when budgets are put together, that is a time line question. Those were the numbers they used when the budgets were established. When the computer is procured, it is not necessary to spend \$1300 or \$1400. What should be spent is what that configured computer will cost now under the contract. Conceivably, it could or would cost less, but it is a moving target. State budgets don't necessarily account for that type of moving target until the session. It doesn't mandate anybody has to spend that amount.

CHAIRMAN ZOOK asked if the contracts are put out on a bid basis.

Mr. Wolf replied they are and they include the ability to obtain discounts down the road.

CHAIRMAN ZOOK asked if they buy the computers all at once.

Mr. Wolf advised the agencies are on a four-year replacement cycle for their hardware. A certain number of those PCs will come up in any given year. The agencies procure those directly off the negotiated contract, and they do not come through a central process.

SEN. BUTCHER noted every workstation around the country now has a flat screen. He asked how long they keep monitors. His monitor

is so old it takes up half the desk. Government is a major target for salesmen who double the price and then give 50% off.

Mr. Wolf advised he had no flat screen in his office. He thought they need to be cognizant when they buy monitors. When talking about reducing the cost of ownership of computers, one of the things they are currently looking at is leasing. There is a disposal factor with computers and monitors. They can't just be hauled to the landfill. There is a total ownership cost on those computers that extends far beyond the \$1300. Whenever a help desk person touches that computer, the cost of ownership climbs. He wondered if it makes sense for the state to buy computers going forward or if leasing is a better model and every four years somebody comes in and sweeps those out the door and puts a different box on the desk. They are responsible for the environmental disposal of that computer, etc. In advance of 2005, there will be a discussion with the budget office about leasing and whether its in the best financial interest of the state.

SEN. BUTCHER asked about updating hard drives and components in existing computers.

Mr. Wolf advised it is an option, but not one he recommends. Warranties are an issue and as the technology changes, more power will be put in a server. There will be more of a true internet protocol framework, and there won't be a need for horsepower at the desktop. When that happens, the desktop device will be scaled down and the cost less.

SEN. STAPLETON advised the bill is flawed. The message needs to be that things have changed in the way the state is doing IT. They have to come first with a plan. Some of them have issues with not only this bill, but also the fiscal note of **HB 369**, which would include speeding tickets and double them. He asked **Chief Justice Gray** if she would be opposed to a better revenue source for IT. Currently, they are getting \$900,000 a year and are asking for \$1.8 million. He mentioned **HB 261** as a mechanism to collect broader revenues and perhaps fund the Judiciary's application. *{Tape: 3; Side: A}*

Chief Justice Gray advised she wouldn't be opposed to any better funding mechanism than currently exists. She looked at his suggestion, and she agreed with the concept of a broader-based funding mechanism such as in **REP. DICK HAINE'S** bill that is not just a user fee for people who use the courts. She encouraged looking at that as a different vehicle for funding their IT, but she had no idea whether it can be worked into that bill. She made it clear that if there is any thought of adding their IT

needs at the cost of the **Department of Justice** needs as set forth in the bill, she had no interest whatsoever in doing that. She understood the concerns, but whichever funding mechanism, she implored them to hang on to **HB 18** until knowing for certain their IT needs can be accommodated through a different funding mechanism. She knew there are concerns about the fiscal note. At the existing \$5, they were never adequately resourced even in pre-state assumption. State assumption made IT a whole lot more costly for the Branch. They are light years behind the legislative branch.

SEN. RICK LAIBLE asked **Mr. Cellini** about the fiscal note and spending \$547,000 over the next two years. Of that amount, he asked how much will go to the various counties and district courts. He asked how much money will go into the mainframe server.

Mr. Cellini advised there will be no mainframe. The servers will be included in that figure. They will be doing an inventory of the age of the equipment they now service and will be using that money to replace those pieces of equipment in district court clerks offices, juvenile probation offices, and courts of limited jurisdiction. They will try to centrally serve some of the applications. That would result in not needing a server in the field, and should be a savings for them.

SEN. BILL TASH asked about the \$9 million spent in court information technology since 1991, and how much of that came from the **Board of Crime Control** in grants.

Ms. Sweeney said it was pre-1995 that the **Board of Crime Control** money was used by and large.

SEN. TASH asked what the expectations are for grant funding.

Ms. Sweeney advised she is optimistic there is funding out there to provide assistance. She was hoping Homeland Security would assist in that, given the fact that they do criminal background searches at the district court level. So far, they have not been successful in obtaining any of that money. Some of the counties are a little more successful in doing that; Lewis and Clark hasn't been.

SEN. TASH asked **Mr. Wolf** about exploring **Board of Crime Control** grants for information technology.

Mr. Wolf said those always need to be explored. He had not spent a great deal of time before the **Board of Crime Control**. He knew they get access to some dollars at various points in time, and

the Board provided seed money as a one-time-only event. This is part of an integrated justice system that does not exist in the state of Montana currently. They need to make sure they can get adequate information in the hands of law enforcement officers, etc. Homeland Security funding is frustrating and there is no clear understanding when dollars are going to come down. There is no better use for that money than this particular circumstance. He hoped they could get some of those dollars for the fully integrated justice system.

Closing by Sponsor:

REP. SHOCKLEY closed on the bill. He didn't know about **REP. YOUNKIN'S** bill. It is a criminal penalty, but went to the **House Transportation Committee**. He was not going to tack on another \$400,000 a year. He would tell the House committee as a whole that if they are trying to get **HB 18** through the Senate, that it is not good politics to add another \$400,000. He addressed the concern about the surcharge. He wanted the money, and if the voters don't have to pay it, it makes him happy. He didn't care how he gets it. He thought the talk about how the money is being spent is a very good discussion, but the Justice of the Peace in Carbon County, **Justice of the Peace Siefert**, is the president of the **Montana Magistrates Association**. They are not getting support at the present funding level; its not getting to the lower courts. They want a package called Full Court and more equipment, particularly in eastern Montana. The courts, both district and JP don't have the technology that they have in Yellowstone County and Lewis and Clark County. In order to give these lower courts the hardware and software they need to bring eastern Montana up to speed, they need more money.

EXECUTIVE ACTION ON HB 272

SEN. JOHNSON advised they heard **HB 272** which is a bill that says the state cannot take entitlement monies, like the monies in **HB 124**, from the counties even if the county owes the state money. There are other funds the state can take it from, but this bill specifically addresses the entitlement monies. At the time of the hearing, an incident was happening in Yellowstone County he disagreed with vehemently; they were holding \$96,000. Yellowstone County didn't come out well on the action the committee took on the bill and the \$96,000 has been paid.

Motion/Vote: **SEN. JOHNSON** made a motion **TO RECONSIDER ACTION ON HB 272**. Motion carried unanimously.

Motion: **SEN. JOHNSON** moved that **HB 272 BE CONCURRED IN**.

Discussion:

SEN. JOHN ESP advised there are two separate sections in the bill that appear to refer back to other sections in the bill. He asked if the county didn't send in revenue as scheduled, how it could be offset.

SEN. JOHNSON said they are only entitled to get back the money they already sent in, plus the raises figured in **HB 124**.

SEN. ESP asked if by passing this, the state would still have the ability to withhold a scheduled entitlement payment from a county that hadn't sent in their scheduled vehicle revenues.

Taryn Purdy, Legislative Fiscal Division, advised the question is if a county did not send in a payment related to what they are entitled, could an entitlement share be withheld. She didn't know the answer to that.

SEN. JOHNSON indicated they are not entitled to anything they don't send in. The bill is written so the money in all the categories comes to the state and they send it back in the same amount as they get it in. The county entitlement money is what they've sent in. Anything above that has to be under the cap of 3% for cities, 2.6% for consolidated governments, and 2% or 2.6% for counties.

SEN. ESP asked **Gordon Morris, Montana Association of Counties**, if a county failed to remit its revenue on schedule, is the state prohibited from failing to remit their entitlement share on schedule.

Mr. Morris advised there is no opportunity for a treasurer, i.e. a county, to withhold entitlement monies to the state of Montana. It would be illegal. He didn't think there is a correlation between what the county is getting by way of the entitlement and the money they are obligated to send to Helena relative to **HB 124** as it passed in the last session.

SEN. ESP said the language in the bill refers to a debt owed a state agency, and asked if they failed to remit, would that be considered a debt.

Mr. Morris could only think of one instance other than the situation with the administrative costs of welfare as they arose in 1999, which was the instance **SEN. JOHNSON** referred to. The state has mechanisms to get their money from other sources. Several years ago, there was a question of overpayment by the state to Anaconda-Deer Lodge. Anaconda-Deer Lodge had failed to

reimburse the state relative to an overpayment they had and the state simply went in and withheld the overpayment money from their gas tax money. He suggested it is seldom that the state would be looking at a county for a payment of a debt to an agency or department.

SEN. STAPLETON advised he voted against the big bill. At the time, he figured bills like this would come forward in the future. If they were all up-front with **HB 124**, it would have been killed a second or third time. He asked what constitutes what a county or town pays to the state or what is included in those types of fees.

Mr. Morris advised those funds that are rolled up into the entitlement monies that now go to the state of Montana are listed in **HB 124**, Section 15-10-420, and related statutes. The principle sources of revenue are motor vehicle monies under the flat fee, gambling revenues, etc., and entitlement monies come back out of that. This was a streamlining of the process.

SEN. STAPLETON asked if it is found there are illegal fees collected or they are reversed at the county or city level, would this bill preclude the state from being able to stop what would be a debt owed to it from a local community.

Mr. Morris said he couldn't think of how that could occur insofar as the monies being collected are statutorily authorized. He couldn't think how there could be an illegal collection included in the entitlement and then a refund.

SEN. STAPLETON described if a tax being overthrown by the voters, and the money has been pushed up to the state. At a future date, retroactively, they say the money has to be given back. This bill would say the state is on the hook for that debt because the state could not recoup the loss back from the local entity because they are guaranteed that entitlement.

Mr. Morris indicated if for some reason the gambling tax was repealed, if gambling was outlawed and the revenue was lost, the bill says any decrease in the revenue coming to the state of Montana can be offset by a reduction in the entitlement payments back to the cities, towns, and counties. There is a trigger of 5%; if it is greater than 5% of the total amount collected, then the entitlement payments will be adjusted. The only one in the list where there would be that possibility would be the gambling. If there was a referendum that outlawed gambling and the machine revenue was lost, that would be a hit of \$25 million. That would result in a major adjustment in the entitlement payments back to the counties and the cities.

SEN. STAPLETON advised his issue is if something is found retroactive, it would currently easily be able to be dealt with. The federal government would not do this with the state. If the state of Montana owes the feds money, they will take it out of whatever the state considers their entitlement.

Mr. Morris could not think of any retroactivity applicability in this instance. If there was referendum to do away with gambling, it would have a date fixed and become illegal from that date and the revenue would cease to be collected from that point. He couldn't think of any instance in **HB 124** of any other revenues that would fall into that category where there is an obligation to retroactively pay some money back.

SEN. STAPLETON asked if the entitlements given back to the local communities are following money sent in from the previous years from that community.

Mr. Morris advised they are totally decoupled. The money that's sent back is based on the money that was collected in the base year, which was 2001. That money grows according to the growth factor that's in the bill. It has lost any relationship to those revenues the state is getting. He pointed out during the special session it was noted that the entitlement money coming to the state of Montana would have grown by an estimated \$9 million in terms of what was originally in the pot. The state was \$9 million better off because of the entitlement program than it would have been without the entitlement program.

{Tape: 3; Side: B}

SEN. BUTCHER asked if there was any reason for the bill.

SEN. JOHNSON said the example he used when he suggested they should not put this bill through at this time, is the only example he knows about. There are other counties that haven't paid that money. If counties sent the money in, they are entitled to have the money back plus the increases that they are guaranteed in **HB 124**. They want to make sure they get that money back. There are other instances, as pointed out by **Mr. Morris**, of monies that come to the state.

SEN. GREG BARKUS advised he had to agree with **SEN. BUTCHER**. It appears the state has lots of remedies available to it whether it's federal, other taxpayers, or other agencies.

SEN. JOHNSON repeated **HB 124** was sold on the basis of the state following through on all of the things they promised, and the counties and cities following through on all of things they

promised. Before, once they had the money, they kept it. Now they send it to the state; in return it is sent back and that is called entitlement money. They don't want to have something happen to cause the state to look at the entitlement money because that is current funds.

SEN. BARKUS said they have yet to hear of an example of that type of instance where that might occur.

SEN. JOHNSON said the state never had taken it before, but they weren't so sure the state wasn't going to take it this time.

SEN. BALES agreed with **SEN. JOHNSON** that it is a matter of trust. When **HB 124** was passed last session, it was a commitment. All four of his counties did not want him to vote for it, and he didn't. The counties did not trust the state. He thought the bill was needed to demonstrate trust once again .

SEN. BEA MCCARTHY agreed with **SEN. BALES**. This is a level of trust between the counties and the state and there is not a good level going back and forth at this point. In **HB 124**, her counties didn't help matters an awful lot. If this can be remedied with this bill, her four counties would appreciate it.

SEN. LIABLE asked **Mr. Morris** if what the county collects and what the state sends back are decoupled from one another, why is the bill needed.

Mr. Morris explained the decoupling is really important. He indicated the gambling and motor vehicle money has increased. What counties get back was determined based upon the 2001 fiscal year collections. There is no relationship to what counties are giving the state and what the state is giving back. He thought **SEN. BALES** and **SEN. MCCARTHY** stated it very well--it is a matter of trust. He described it as a "sleep factor" for county commissioners. This is money that is coming back to them, it is already budgeted for, and is not going to be tampered with.

SEN. LAIBLE asked if the bill is passed and the county feels they're sending in more money that they're getting back, can they alter the bill to get the extra revenue.

Mr. Morris said counties are legally obligated to submit the money collected from all of those sources identified in **HB 124**. They can't withhold it. If they wanted to change the revenue stream, they'd have to come before the legislature. There are a host of bills to make changes this session, not from **MACO**, that propose to make changes in that stream by virtue of increasing fees. All that would flow to the state of Montana, whether they

are fee increases of snowmobiles or boats. If counties wanted to regain the poker machine money, they'd have to come back to the legislature with a bill and take the responsibility back for collecting it and distributing it. The state gets every dollar that is collected.

SEN. LAIBLE asked about the incident involving Yellowstone County. He asked why they didn't send the money in.

Mr. Morris said it wasn't just Yellowstone County. In 1999, the counties budgeted for their portion of administrative welfare costs. They were advised the administrative costs were going to increase 9%, and they budgeted on the basis of an assumption that the admin costs they had to send to Helena would be 9% higher than they were the year before. Mid-year, the state came back and said the admin costs were 14% and the counties had to send the difference. All 44 counties in 1999 were not state assumed. From 1999 to 2001, those counties refused to pay the higher admin costs because they came in the middle of the fiscal year and were contrary to what the adopted budgets were, and they simply said they weren't going to pay it. **MACO** came to the legislature in 2001 and the former senator from Hamilton carried **SB 339**. In that bill, the money was going to be written off. The state could not come back to the counties and increase the administrative allocation arbitrarily during the fiscal year.

SEN. LAIBLE said he was now in agreement with **SEN. BALES** and **SEN. MCCARTHY**.

SEN. STAPLETON asked if there is a minimum amount a county gets back if they send in nothing. He wondered if low end counties are subsidized.

SEN. JOHNSON said the law requires they send in for all of the items listed in **HB 124**. If a county, etc., fails to do that, they are in violation of the law. This bill only says that any of the money they are entitled to get back, cannot be taken to pay a debt the county owes the state.

SEN. STAPLETON asked if there is a minimum amount or if the minimum amount is zero.

SEN. ESP explained all the money in **HB 124** is based on the base year of 2001. What they send in this year has no relevance to what they get back. It is based on what happened in 2001 and the growth built into the bill beyond that time. All of the money in the entitlement share that comes back to the counties is not money they send in. They send in revenue, but some of it was the old **SB 184** money, which was considered an entitlement from the

state back to the counties because of the reduction in business equipment tax. The gambling money went to the state beforehand and was distributed back to the cities and counties, etc. Basically, most of what the county sends up now are the vehicle fees.

SEN. STAPLETON asked if there wouldn't be a situation even with the smallest and poorest counties, where they would get more from the state in entitlements than they had sent in at some point.

SEN. ESP said it is certainly possible, and was probably possible in any year after 2001 because there could be some counties that had less vehicle revenue. The entitlement back is based on 2001.

CHAIRMAN ZOOK asked **Commissioner Bill Kennedy** about the check he was in charge of that was turned in since the bill was indefinitely postponed. He asked why **Mr. Kennedy** did that.

Commissioner Kennedy advised Yellowstone County was billed by the **Department of Health and Human Services** for approximately \$96,000. He said **Mr. Morris** explained the indirect costs--the 9% and 14%. They talked with the department and told them the treatment program in Billings was cut with the mental health cuts. They asked if they could transfer the \$96,000 over to the day treatment program, and sign that check over to the mental health center, to keep the day treatment going for another year. They were told at that time it would have to go back to the legislature and those dollars would have to be allocated. They tried to have a bill submitted during the special session. He contacted **Mick Robinson** from **DPHHS** and they knew they were trying to get a bill through to be able to transfer those dollars. They couldn't get it to the special session, so they submitted a bill during this session. He had been in contact with the department on those dollars. The bill went down, they didn't have the opportunity to make that transfer, and he met with **Mick Robinson** and paid him the money.

CHAIRMAN ZOOK asked if this bill had passed, what would have happened to the check.

Commissioner Kennedy said in the bill they asked to transfer the dollars to the day treatment program in Billings to keep it running for another year.

CHAIRMAN ZOOK asked if they couldn't have done that without an action of the legislature.

Commissioner Kennedy advised they could not. They were told the money had to come back and be re-allocated. That's why they held

on to the dollars. It wasn't an easy process just to try to transfer it over.

CHAIRMAN ZOOK asked the number of the other bill and whether it was introduced this session.

Commissioner Kennedy said it was. Eventually, they had two different bills. The bill former **SEN. BARRY** carried last session on the assumption of the welfare program, said past debts that were due to the state of Montana would be forgiven. When that bill was married up with **HB 124**, that was repealed out. Because of that, the intent of the bill was to settle up the differences. There were counties that owed some money, and they tried to transfer their dollars. This session, they had two bills: one was an all-county bill to go back and forgive the dollars. Yellowstone County had a bill to try to transfer the dollars over. They were trying to keep their day care center.

CHAIRMAN ZOOK asked if the money dates back to 1999 in the special session. When that issue came up in the special session out at Carroll College, **Dave Lewis** was still in the budget office. He went to **Dave Lewis** and told him what was going on. They went to the department, and the department was made to swallow that money at that time.

Commissioner Kennedy advised he met with **Mick Robinson** of the department who told them there is a special revenue fund this money would go back to. Also at that time, he said the money they owed would not go back into the department budget; it would go back to the special revenue fund in the general fund.

CHAIRMAN ZOOK advised they've talked about trust and the word tampering was mentioned. He asked who has done the tampering, the state or the counties.

Commissioner Kennedy said he saw his point, and hopefully with the passage of this bill, there will be more of a trust factor on both sides.

SEN. ESP asked what would have happened to the check **Commissioner Kennedy** was holding had **HB 272** been recommended out of this committee and passed on the Senate floor.

Commissioner Kennedy advised the repayment would have been made to the state of Montana with or without this bill going through.

SEN. BARKUS asked if **SEN. ESP** had been asked to do a substantial amount of cabinetry work for Yellowstone County and prior to the county paying him, the county realized he owed some tax dollars.

He asked if the county would offset his property taxes with the money they owed him.

Commissioner Kennedy said they can't do that.

Vote: Motion carried 12-6 with BARKUS, BUTCHER, ESP, STAPLETON, TASH, and ZOOK voting no.

EXECUTIVE ACTION ON SB 89

CHAIRMAN ZOOK advised they had mixed information and **Ronda Carpenter** had something they ought to hear.

Motion: SEN. TASH moved TO RECONSIDER ACTION ON SB 89.

SEN. TASH explained SB 89 is about reversions going back to counties.

Vote: Motion carried 17-1 with COBB voting no.

Motion: SEN. TASH moved that SB 89 DO PASS.

Ronda Carpenter, Montana County Treasurer Association, advised last session it was determined unclaimed property that the county and local governments were using needed to be sent to the state government. It is listed in the code how long each type of item must be held. **{Tape: 4; Side: A}** County Treasurer's say their accounts have been swept and the numbers don't match the fiscal note. The counties want to keep the money locally, especially in the case of warrants. The Missoula County attorney will argue that warrants can't legally be included as unclaimed property. At the end of the year, they clear the warrants off their books, but are liable for the next seven years. If someone comes back to the county, the county is responsible. The **Department of Revenue** said counties can submit to them, but it is a lot of paperwork for a small amount of money for checks that weren't cashed. In the past, counties have always kept the money, it was designated, and someone can come in and cash a check. The bill says local governments can keep that money. They disagree with the fiscal note, and believe it involves up to a fifteen year sweep.

SEN. TASH advised the fiscal note showed a \$139,000 hit on the general fund, and the audit report covered 15 years.

CHAIRMAN ZOOK advised the last time it was discussed, there were different figures--\$100,000 a year.

Lee Baerlocher, Department of Revenue, clarified the figures on the fiscal note came from voluntary compliance by cities, towns, counties and the audit. They took the total amounts from the audit divided by the number of years and multiplied by 60%. Currently the department returns about 40% of the unclaimed property to individuals.

SEN. BUTCHER asked if this included vacated bank accounts.

Mr. Baerlocher advised the money included checks written by the county to an individual. Banks are required to forward money from accounts with no action after five years. The information is published in the newspaper and on the website.

SEN. LIABLE asked **Mr. Baerlocher** how his numbers differ from what the counties sent according **Ms. Carpenter**.

Mr. Baerlocher advised he didn't have a good explanation for that. He thought possibly they were using different years.

SEN. LAIBLE asked how many FTE's it takes to manage this within the **Department of Revenue**.

Mr. Baerlocher advised they have one auditor and one person submitting claims. They collect about \$4 million a year.

SEN. BUTCHER asked if someone dies in a county, are the heirs more likely to locate lost revenue at the state level or county level. It seemed to him that would be the only rationalization for snatching this money.

Mr. Baerlocher advised there are advantages to both. In the smaller rural counties people know each other. There could be a situation where somebody comes across a check that has been voided or has not been cashed. The advantage for the state is the ability to put the information on the website.

SEN. TASH asked **Mr. Morris** to respond to **SEN. BUTCHER'S** question regarding people who died.

Mr. Morris said the bill was before them because of **MACO**, and only involves property in the courthouse. It doesn't involve property in a bank, safety deposit boxes, or anyplace else. It only involves property in the county in the form of a county warrant. A county warrant is a promise to pay. It could be a payroll check, a refund on overpayment of tax, or a prize from a county fair, and it is not a great deal of money. There is a process for dealing with warrants. This section of law has been on the Montana books since well before 1947. It was first

enacted in 1943 as part of the national effort to create a uniform unclaimed property act, primarily dealing with the private sector. Other states have exempted local governments, which is what the bill asks. In 1981, there was a significant rewrite of the law, that was repealed in 1995 and there was a whole new section of law pertaining to unclaimed property. In 1997, it was amended again. In 2001, the legislature saw fit to actually fund the auditor position. Up until then, it was always voluntary. There are a hundred county codes that explain what to do with unclaimed property. If **SEN. BARKUS** was written a check for \$10, and he determined he'd rather frame that and put it up with the ribbon as part of the prize he got for his grandson's presentation at the county fair, under this law the county would have to send that \$10 to the state of Montana. He quoted from 76-2607: "the board shall cause to be cancelled all county warrants that remain uncalled for one year or more in the county clerk's office. The uncalled warrant must be cancelled in the same manner as other county warrants, and at the same time the county treasurer shall deliver to the board all warrants or vouchers that are in the county treasurer's possession for money disbursed by the county treasurer, and the clerk shall issue a receipt." That money is recycled; it stays in the county and goes back to the fund from which it is drawn and is reused and available for re-appropriation until such time as **SEN. BARKUS** decides to take the plaque down off the wall and cash the warrant. The county pays him the \$10, and that's the way the system works historically. In September, following the 2001 session, the auditor started visiting the counties. **SEN. TASH** was at a fall district meeting in Dillon and heard very clearly from county commissioners it wasn't acceptable to come into the county courthouse, trying to take county warrants, and have them sent to the state. The state is causing counties to increase taxes and the state is anticipating money he didn't think they're going to get. He hoped they would take the bill off the table. The bill has been in more places than any other bill he had dealt with in 20 years working with the legislature. He advised the bill is simple and fair. If they think it will hurt the state's general fund budget, they should put the money on the books, sit back, and wait to see if they collect it. He predicted they won't.

SEN. BALES asked when there is unclaimed property and somebody comes in and asks for it, if the state retains a percentage of that money.

Mr. Baerlocher advised a claimant receives 100% of that money.

SEN. BALES asked about the liability of the different entities.

Mr. Baerlocher explained the county can refund the money and the department will send them a check, or they can send the individuals to the department.

SEN. BALES advised he talked to one of his county treasurers and their comment was most checks are small. Their thought was they might cancel those checks and reissue them rather than having them go to the state.

Mr. Baerlocher said when they have the auditor go out, they try to trace amounts that are reflective on the original checking account or the general ledger. The counties are very good about issuing a check and reporting that information.

SEN. BARKUS did not think it right for counties to be set apart. He asked if county treasurers are required to use the warrant process in making payments.

Ms. Carpenter advised in some places warrants are required, and some places checks are required.

Mr. Morris explained there are treasurer checks that are issued for overpayment of a tax, but the treasurer issues a warrant for any bill the county has.

SEN. BARKUS asked if that is by statute or by practice.

Mr. Morris replied it's by statute.

SEN. BARKUS asked if the length of time is one year on a warrant and seven years on a check.

Mr. Morris answered yes. He had seen warrants issued where they are void after a fixed number of days.

SEN. BARKUS asked if putting void after one year on the check would eliminate the need for the property to go to the state.

Mr. Morris said it would mean the check is cancelled and would have to be reissued. After one year, the check is no longer valid.

SEN. BARKUS asked if it is turned over to the state as unclaimed property after one year.

Mr. Morris said anything that has been unpaid as of the end of the year has to be reported and turned over to the state. It would be accounted for in the audit and be included in the sweep to the state.

SEN. BARKUS asked even if the check was written on December 20th.

Mr. Morris said it wouldn't be unclaimed at that point because it hasn't met the one-year deadline. Anything that had met the one-year cancellation deadline, up to and ending on December 31, would be included in the sweep.

SEN. BARKUS asked if it possibly could be two years if the check was issued on December 30.

Mr. Morris said it would be outstanding on January 1st of the next year.

SEN. ESP asked **Mr. Baerlocher** about his testimony and if the voluntary two years was used to calculate the \$68,500 figure.

Mr. Baerlocher said that is correct.

SEN. ESP asked if those two years were 2001 and 2002.

Mr. Baerlocher said he didn't have information on which years were used.

SEN. ESP asked if the auditor had been working on any years other than 2001 and 2002.

Mr. Baerlocher said he believed she would try to find a report for two years and accumulate those.

SEN. ESP commented on what he thought the actual number was.

SEN. LAIBLE asked **Mr. Morris** about someone who dies intestate, and what happens to that money.

Mr. Morris advised it goes to the state.

Vote: Motion carried 16-2 with **BARKUS** and **COBB** voting no.

ADJOURNMENT

Adjournment: 11:50 A.M.

SEN. TOM ZOOK, Chairman

PRUDENCE GILDROY, Secretary

TZ/PG

EXHIBIT (fcs59aad)